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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
PHOENIX DIVISION

Todd Heichel, Rudy Castro Justin  
Garmendia, Joshua Holgate and Randi  
Pltts, Each Individually and on Behalf of  
All Others Similarly Situated,

Plaintiffs,

v.

Tri City Transport, LLC, SWWOOP,  
LLC, and Michael Butler,

Defendants.

NO. 2:22-cv-1513-PHX-SMM

**FOURTH MOTION FOR  
EXTENSION OF TIME FOR  
SERVICE OF PROCESS AND FOR  
ALTERNATIVE SERVICE OF  
INDIVIDUAL DEFENDANT  
MICHAEL BUTLER**

Plaintiffs, each individually and on behalf of all others similarly situated, by and through undersigned counsel of Sanford Law Firm, PLLC, for their Fourth Motion for Extension of Time for Service of Process and for Alternative Service of Individual Defendant Michael Butler (“Motion”), state and allege as follows:

1. Plaintiffs filed this action on September 8, 2022. *See* ECF No. 1. Plaintiffs have been diligently pursuing service of a dodging Defendant ever since. *See* ECF No. 28.

1           2.     On December 6, 2022, this Court granted Plaintiff's Motion for Extension  
2 of Time for Service of Process, which extended the deadline to serve Defendants to  
3 March 13, 2023. *See* ECF No. 16.

4           3.     On March 13, 2023, this Court granted Plaintiff's Second Motion for  
5 Extension of Time for Service of Process, which further extended the deadline to serve  
6 Defendants to June 12, 2023. *See* ECF No. 23.

7           4.     On June 13, 2023, this Court granted Plaintiff's Third Motion for  
8 Extension of Time for Service of Process, which further extended the deadline to serve  
9 Defendants to September 10, 2023. *See* ECF No. 29.

10          5.     Plaintiffs served Defendants Tri City Transport, LLC, and SWWOOP,  
11 LLC, in accordance with A.R.S. § 29-3119(B), both of which are in default. *See* ECF  
12 No. 32.

13          6.     Individual Defendant Michael Butler ("Defendant Butler") remains  
14 unserved.

15          7.     The process server has made at least 2 additional attempts to serve  
16 Defendant Butler at two different addresses but has been unable to locate Defendant  
17 Butler.

18          8.     Plaintiffs request permission to serve Defendant Butler via an alternative  
19 method of service.

20          9.     Under Federal Rule of Civil Procedure 4(e)(1), an individual may be  
21 served by "following state law for serving a summons in an action brought in courts of  
22

1 general jurisdiction in the state where the district court is located or where service is  
2 made.” Fed. R. Civ. P. 4(e)(1).

3 10. Defendant Butler is believed to be in Maricopa County, Arizona.

4 11. In Arizona, if a party can show that the normal methods of service are  
5 impracticable, they may serve the non-responsive party by “mail[ing] the summons, the  
6 pleading being served, and any court order authorizing an alternative means of service  
7 to the last-known business or residential address of the person being served.” Ariz. R.  
8 Civ. P. 4(k)(2).

9 12. Parties in Arizona can also serve by publication if shown “that the service  
10 provided by Rule 4.1(c) through 4.1(k) – including an alternative means of service is  
11 impracticable, the court may, on motion and without notice to the person served, order  
12 that service be accomplished by publication.” Ariz. R. Civ. P. 4(l)(1).

13 13. Because Plaintiffs have been unable to locate a valid residential address  
14 for Defendant Butler, making service by mail impracticable, Plaintiffs request  
15 permission to serve Defendant Butler by publication in accordance with Ariz. R. Civ. P.  
16 4(l); supported by the attached affidavit marked as Exhibit 1; and on approval of the  
17 language for the published notice attached as Exhibit 2.

18 14. Plaintiffs seek to publish a copy of Exhibit 2 once a week for four weeks  
19 in a Newspaper whose circulation includes Maricopa, Yuma, and Yavapai Counties.

20 15. For good cause shown, Plaintiffs seek a 60-day extension to allow for the  
21 publication process.

22

16. Plaintiffs make this request in good faith; this motion is made for good cause and not for the purpose of delay.

17. Defendants will not be harmed or prejudiced if this Court grants the relief requested herein.

WHEREFORE, premises considered, Plaintiffs respectfully pray that this Court grant this Motion allowing for service by publication and extending Plaintiffs' time to serve Defendants, up to and including November 7, 2023.

DATED this 8<sup>th</sup> day of September, 2023.

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